

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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MURASHEA BOVELL,

Plaintiff,

21-cv-01621 (PMH)(AEK)

-v-

CITY OF MOUNT VERNON, New York, GLENN SCOTT, individually and in his official capacity as Police Commissioner of the Mount Vernon Police Department, SHAWN HARRIS, individually and in his official capacity as former Police Commissioner of the Mount Vernon Police Department, RICHTON ZIADIE, individually and in his official capacity as Chief of Mount Vernon Police Department, GREGORY ADDISON, individually and in his official capacity within the Mount Vernon Police Department, MICHAEL KUSHNIR, individually and in his official capacity within the Mount Vernon Police Department, ANGELES CHEUNG, individually and in her official capacity within the Mount Vernon Police Department, GARY ISHKANIAN, individually, and in his official capacity within the Mount Vernon Police Department.

Defendants.

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Joint Pre-Trial Order Pursuant to Rule 26(a)(3) and
the Court's Individual Practice Rule 6(A)

i. **The Full Caption**

The full caption is included above.

ii. **The Amount Of Trial Time Each Party Anticipates Needing For Its Case In Chief**

- a. Plaintiff expects its case in chief to last approximately five days.
- b. Defendants expects its defense to last five (5) days.

iii. **The Names, Addresses (Including Firm Names), Email Addresses And Office And Mobile Telephone And Fax Numbers Of Trial Counsel**

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iv. **Statements Regarding Subject Matter Jurisdiction And Objections**

a. **Plaintiff's Statement**

Jurisdiction is founded upon 28 U.S.C. § 1331 in that Plaintiff alleges claims which arise under the laws of the United States; 28 U.S.C. § 1343(1) in that Plaintiff seeks to recover damages

from the deprivation of Plaintiff's civil rights in the furtherance of defendants' conspiracy pursuant to 42 U.S.C. § 1985(3); 28 U.S.C. § 1343(2) in that Plaintiff seeks to recover damages from defendants who failed to prevent or failed to aid in preventing damages caused by defendants conspiracy pursuant to 42 U.S.C. § 1985(3), that defendants had knowledge of and the power to prevent; 28 U.S.C. § 1343(3) in that Plaintiff seeks to recover damages from defendants to redress the deprivation, under color of any State law, statute, ordinance, regulation, custom or usage, of any right, privilege or immunity secured by the Constitution of the United States or by any Act of Congress providing for equal rights of citizens or of all persons within the jurisdiction of the United States; 28 U.S.C. § 1367 in that Plaintiff invokes the supplemental jurisdiction of this Court to adjudicate pendant state law claims.

b. Defendants' Objections to Subject Matter Jurisdiction

The defendants do not contest the subject matter jurisdiction of this Court. The Court has jurisdiction pursuant to 28 U.S.C. §1343(3), 28 U.S.C. 1367 and 42 U.S.C. §1985(3).

v. Statements regarding claims and defenses

a. Plaintiff's Claims:

The gravamen of Plaintiff's causes of action asserts discrimination and retaliation pursuant to Title VII and 42 U.S.C. s. 1983 (implicating the First Amendment). Mr. Bovell first attempted to bring change to the extensive racism and corruption that Mr. Bovell witnessed first-hand within the Mount Vernon Police Department ("MVPD") by reporting relevant instances of such to superiors within the Mount Vernon Police Department, and subsequently the Mayor of Mount Vernon. Mr. Bovell eventually filed a civil complaint in Federal Court, detailing several instances of racism and corruption. Time passed, nothing was done, and the leadership of the

MVPD continued to protect the corrupt and racist members of the MVPD. During this time, several members of the MVPD retaliated against Mr. Bovell due to his disclosures.

Nevertheless, Mr. Bovell was determined to make a change. He brought these issues into the national spotlight by disclosing the information he had, as well as tape recordings he made, to the Gothamist media outlet, which spread news of the MVPD's racist and corrupt practices to the world. Mr. Bovell's disclosures kicked off an investigation by the Westchester County District Attorney's Office, as well as the Department of Justice. They also caused the transfer of one of the MVPD's most troublesome officers, Detective Camillo Antonini. However, Mr. Bovell continued to experience retaliation by those within the MVPD.

b. Defendants' Defenses

The defendants deny that the City, its elected officials, its employees, its contractors or agents discriminated or retaliated against the plaintiff in any way. In fact, despite a spotty attendance record and a documented history of filing unfounded complaints, the plaintiff advanced in his career by securing coveted assignments in the Mount Vernon Police Department ("MVPD") and was promoted to the rank of Sergeant prior to the initiation of the current action.

The defendants deny the plaintiff's allegation that he acted as a whistleblower to reveal corrupt and racist practices in the MVPD. Despite being given repeated access to senior police and elected officials, he was never able to provide those officials with substantive proof of any concerted pattern of racist or corrupt behavior within the MVPD. His complaints were determined to be without merit by both City officials, and a Federal Court.

The plaintiff's Complaint conveniently ignores the fact that during the time period in which he alleges a pattern of racism both the City Administration and the MVPD were racially diverse. In fact, during the entirety of the plaintiff's employment, the Police Commissioner was a Black

person, the MVPD leadership team contained numerous Black officers, three successive Mayors were Black and the members of the City Council were all Black. It strains credulity to believe that the plaintiff was singled out for disparate treatment based on his race when the leadership was so diverse.

The plaintiff's claim that it was he who raised the specter of racism within the MVPD is also without merit. Both the Westchester County District Attorney's and the Department of Justice investigations focused on the MVPD's treatment of the City's Black citizens. Neither investigation looks at racism within the MVPD.

The defendants specifically deny that the transfer of Detective Camillo Antonini was precipitated by any whistleblower action taken by the plaintiff.

vi. Statement regarding Jury Demand and Length of Trial

Both Parties are demanding a trial by jury and expect the length of the trial to be ten days, exclusive of jury selection.

vii. Statement regarding consent to trial before the Magistrate

Plaintiff consents to the trial being conducted by the Magistrate Judge. The defendants also consent to the Magistrate Judge conducting the trial.

viii. Stipulations and/or Agreed Statements of Fact or Law

N/A

ix. Witness Lists

Plaintiff Anticipates Calling the following witnesses, as noted in Plaintiff's Rule 26(a) initial disclosures:

1. Name: Sergeant Elio Rucci
Contact: MVPD 2 Roosevelt Sq N. Mount Vernon, NY 10550; Phone: 914-665-2500
Information: 6th Notice of Claim. Gave plaintiff unjust/unfair evaluation knowing that plaintiff was injured in the line of duty, but Sgt. Rucci counted plaintiff's line of duty days as if they were regular sick days. This was appealed by plaintiff but has still not been corrected. This involves approximately 60 sick days wrongfully debited from plaintiff's sick leave balances. Line of Duty sick days are not deducted from plaintiff's sick leave balances.
2. Name: Chief Marcel Olifiers
Contact: MVPD 2 Roosevelt Sq N. Mount Vernon, NY 10550; Phone: 914-665-2500
Information: 6th Notice of Claim. Chief was involved in plaintiff's appeals of plaintiff's unjust/unfair evaluation and conversion of plaintiff's sick leave balances. Informed plaintiff that he would reimburse plaintiff's sick leave balances but bit still has not been remedied.
3. Name: Lieutenant Robert Wuttke
Contact: MVPD 2 Roosevelt Sq N. Mount Vernon, NY 10550; Phone: 914-665-2510
Information: Involved in the police corruption within the MVPD
4. Name: Police Commissioner Shawn Harris
Contact: 1 Hill Ave, Washingtonville, NY 10992; Phone: 914-879-5788
Information: Involved with police corruption and retaliation against plaintiff. Directed plaintiff to submit to bogus fitness for duty exams; ordered plaintiff to surrender his firearms; placed plaintiff on involuntary unpaid leave; denied plaintiff due process of law in failing to hold a Civil service Law § 72 hearing, despite due demand for same.
5. Name: Lieutenant Paul Nawrocki
Contact: 82 Orchard Road, Mahopac, NY 10541
Information: Involved with police corruption and retaliation against plaintiff. Conspired with Police Commissioner Shawn Harris to retaliate against plaintiff.
6. Name: Police Officer John Campo
Contact: MVPD 2 Roosevelt Sq N. Mount Vernon, NY 10550; Phone: 914-665-2510

Information: He witnessed police corruption and even participated in police misconduct at MVPD. Plaintiff had recorded conversations between him and PO Campo which are provided below.

7. Name: Chief Richton Ziadie
Contact: 3609 Boller Avenue, Bronx New York
Information: Witnessed police corruption and retaliation against plaintiff. Plaintiff recorded a conversation between Chief Ziadie and plaintiff in which Chief Ziadie informed plaintiff that it was Police Commissioner Shawn Harris who orchestrated the retaliation against plaintiff.
8. Name: Dr. Gary Ishkanian
Contact: 12 North 7th Avenue, Mount Vernon, New York
Information: Part of the corruption with the MVPD in wrongfully denying plaintiff his line of duty medical benefits and failed to approve medical treatment for plaintiff's line of duty injury.
9. Name: Dr. Angeles Chung
Contact: 445 Park Avenue, New York, New York 10222
Information: MVPD Psychological doctor who conducted the bogus fitness for duty examination and prepared the report that resulted in the wrongful removal of plaintiff's firearms and being placed on unpaid medical leave.
10. Name: Lieutenant Gregory Addison
Contact: MVPD 2 Roosevelt Sq N. Mount Vernon, NY 10550; Phone: 914-665-2510
Information: Part of the police corruption and retaliation against plaintiff. He was present when plaintiff discovered the small rubber rat which was placed near plaintiff's locker in the locker room and ran out laughing out loud. He was also present during roll call when Sgt. Kushnir called plaintiff a rat. Both Sgt Kusnir and Lt. Addison were laughing about it in the hallway, while looking at plaintiff. He also played a role in the denial of plaintiff's line of duty medical treatment. Lt. Addison was present when plaintiff appealed his unjust/unfair evaluation in or around 2020. Plaintiff provided the conversion documents to Lt. Addison in order to have his sick days restored. Ordered plaintiff in to submit to an improper drug test.
11. Name: Sergeant Michael Kushnir
Contact: 9 Sharon Way, Yonkers, New York

Information: Part of the police corruption and retaliation against plaintiff. Sgt. Kushinir called plaintiff a rat in front of other officers at roll call. He was then suspended and retired.

12. Name: Chief Steven Sexton
Contact: MVPD 2 Roosevelt Sq N. Mount Vernon, NY 10550; Phone: 914-382-9667
Information: Spear headed team to fight against corruption within the MVPD against Chief Richton Zadie and others. He wrote plaintiff's injury report which he modified it negatively against plaintiff as a result of pressure from Deputy Chief Rolland.
13. Name: Detective Allen Patterson
Contact: MVPD 2 Roosevelt Sq N. Mount Vernon, NY 10550; 929-3433-8021
Information: Witnessed corruption within the police department, including the narcotics unit. He is also on recorded conversations with plaintiff talking about police misconduct.
14. Name: Sergeant Jean-Jerome
Contact: MVPD 2 Roosevelt Sq N. Mount Vernon, NY 10550; 914-490-5938
Information: PBA representative: Witnessed police corruption within the police department and how plaintiff was mistreated.
15. Name: Sergeant Brent Gamble
Contact: MVPD 2 Roosevelt Sq N. Mount Vernon, NY 10550; 914-403-9196
Information: Former PBA President; was aware of the police corruption and retaliation against plaintiff.
16. Name: Detective Alec Francis
Contact: MVPD 2 Roosevelt Sq N. Mount Vernon, NY 10550
Information: Knew about police corruption and retaliation against plaintiff. As Internal Affairs officer, he was present at depositions in plaintiff's prior related lawsuit. Compelled plaintiff to submit to non-random (as per PBA contract) drug test.
17. Name: Detective Anthony Burnett
Contact: MVPD 2 Roosevelt Sq N. Mount Vernon, NY 10550
Information: Compelled plaintiff to submit to non-random (as per PBA contract) drug test.

18. Name: Detective Benny Guiterez
Contact: MVPD 2 Roosevelt Sq N. Mount Vernon, NY 10550; 914-665-2500
Information: Knows about detailed corruption within the MVPD
19. Name: Sergeant Sean Fagan
Contact: MVPD 2 Roosevelt Sq N. Mount Vernon, NY 10550; 914-665-2500
Information: Facilitated, encouraged and engaged in corruption within the MVPD
20. Name: Dispatcher Twana Richards
Contact: MVPD 2 Roosevelt Sq N. Mount Vernon, NY 10550; 914-665-2500
Information: Knows about and witnessed corruption in the City.
21. Name: Robert J. Ponzi
Contact: 1133 Westchester Avenue, Suite N-202, White Plains, NY; (914) 505-6122
Information: Participated in and steered various corrupted hearings on behalf of MVPD City of Mount Vernon, was also disbarred.
22. Name: Dr. Sanjiv Bansal
Contact: 2705 Williamsbridge Road, Bronx, New York 10469; (718) 515-9800.
Information: Is aware of corruption by MVPD use of medical needs as a means of retaliation or management tool.
23. Name: Captain Roy Hastings
Contact:
MVPD 2 Roosevelt Sq N. Mount Vernon, NY 10550; 914-665-2500
Information: Is aware of and participated in corrupt practices within the MVPD
24. Name: Detective Avion Lee
Contact: MVPD 2 Roosevelt Sq N. Mount Vernon, NY 10550; 914-665-2500
Information: Is aware of corrupt practices within the MVPD
25. Name: Police Officer Joseph Diaz
Contact: MVPD 2 Roosevelt Sq N. Mount Vernon, NY 10550; 914-665-2500
Information: Is aware of and witnessed corrupt practices within the MVPD
26. Name: Police Officer George Monge PBA
Contact: MVPD 2 Roosevelt Sq N. Mount Vernon, NY 10550; 914-665-2500
Information: Is aware of corrupt practices within the MVPD

27. Name: Police Officer Daniel Denenedicts PBA
Contact: MVPD 2 Roosevelt Sq N. Mount Vernon, NY 10550; 914-665-2500
Information: Is aware of corrupt practices within the MVPD
28. Name: Dr. Gregory I. Mack, PhD.
Contact: 220 Route 6, Mahopac, NY 10541; 845-282-3367
Information: Treatment provider to plaintiff
29. Name: Cindy Maric, LCSW
Contact: 731 Saw Mill River Road, Suite 7, Ardsley, NY 10502; (516) 330-1818
Information: Treatment provider to plaintiff

b. Defendant's Anticipated Witnesses

The defendants reserve the right to call any witness identified as a plaintiff potential witness. In addition, the defendants reserve the right to call the following additional witnesses:

1. Mayor Shawyn Patterson -Howard
Contact: 1 Roosevelt Square N, Mount Vernon. NY 10550; (914) 665-2300
Information: City equal opportunity practice and procedures; City requests for third party investigations
2. Brian Johnson, Corporation Counsel
Contact: 1 Roosevelt Square N, Mount Vernon. NY 10550; (914) 665-2300
Information: City equal opportunity practice and procedures: City investigations into plaintiff's complaints
3. Michael Lentini, Legal Investigator,
Contact: 1 Roosevelt Square N. Mount Vernon, NY 10550
Information: City investigations into plaintiff's complaints.

x. Testimony from Unavailable Witnesses

N/A

xi. Exhibit Lists

Please see attached Excel spreadsheet containing Plaintiff's proposed exhibits

xii. Relief Sought

- a. \$65,330.20 in economic damages stemming from:
 - i. \$22,000.00 tax free sick time that Plaintiff lost because his injury was not designated line-of-duty;
 - ii. \$2,000.00 in lost deferred compensation benefits;
 - iii. \$500.00 to Dr. Paul Gunser to perform a “fit for duty” exam and report to combat Defendants’ fraudulent exam;
 - iv. \$6,250.00 in Attorneys’ fees expended to combat Defendants’ efforts to remove Plaintiff’s firearm licenses/permits and other issues;
 - v. \$4,000.00 in back pay for time Plaintiff was improperly placed on unpaid leave;
 - vi. \$30,000.00 in lost stipend pay stemming from Defendants’ unjust failure to promote Plaintiff to Detective (10 years multiplied by a \$3,000.00 stipend per year);
 - vii. \$500.00 in mailing and postage; and,
 - viii. \$11,480.00 in interest on certain of these items, at the rate of 9 percent, per annum (per the CPLR);
 - b. \$50,000.00 for pain and suffering caused by the Defendants’ actions that led to the improper medical treatment of his injuries;
 - c. \$500,000.00 in emotional damages stemming from the racism, retaliation, and hostile workplace created by the Defendants (Plaintiff has been receiving ongoing therapy since 2018);
 - d. The following amounts for each individual defendant in punitive damages:

GLENN SCOTT \$500,000.00

SHAWN HARRIS \$500,000.00

RICHTON ZIADIE	\$250,000.00
GREGORY ADDISON	\$250,000.00
MICHAEL KUSHNER	\$250,000.00
ANGELES CHEUNG	\$250,000.00
GARY ISHKANIAN	\$250,000.00

e. An award of attorneys' fees calculated by multiplying the hours spent by \$500.00 per hour.

xiii. **Statement regarding a less than Unanimous Verdict**

Plaintiff consents to a verdict by a less than unanimous jury finding.

Defendant does not consent to a less than unanimous jury finding.

xiv. **Modification of Order**

IT IS FURTHER ORDERED THAT the Court may, in order to prevent manifest injustice or for good cause shown, at the trial of the action or prior thereto, upon application of counsel for any party made in good faith, or upon the Court's own motion, modify this Joint Pretrial Order to the extent that the Court may deem such modification to be just and proper.

Dated: July 29, 2022
New York, New York

JOSEPH W. MURRAY, ESQ.

/s/ Joseph Murray
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